

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF GEORGIA**  
**SAVANNAH DIVISION**

ROBERT CURTIS FINCH, )  
                          )  
Plaintiff,             )  
                          )  
v.                      )                  Case No. CV409-177  
                          )  
SOUTHEASTERN ORTHOPEDIC )  
CENTER and WILLIAM C. TALLY, )  
                          )  
Defendants.            )

**REPORT AND RECOMMENDATION**

Filing essentially the same case as *Finch v. Southeastern Orthopedic Center*, No. CV410-046 (S.D. Ga. Filed Feb. 22, 2010) (which this Court has just recommended be dismissed as duplicative), Robert Curtis Finch seeks damages against in-state medical providers for their failure to properly diagnose and treat his back problems. Doc. 1. On March 8, 2010, he filed a “Rule 3 Criminal Complaint” in this case, asserting that the defendants should be arrested since they made him a quadriplegic and caused him to lose his “true strong penis and spinal column” and “the largest Caucasian penis on earth.” Doc. 19 at 2-3.

This medical malpractice case sits on no jurisdiction (as no federal question is presented to invoke 28 U.S.C. § 1331, no diversity jurisdiction is pled to invoke 28 U.S.C. § 1332, and no specific jurisdictional statute is cited). And, Finch's "criminal complaint" is a legal nullity, for only prosecutors may file them. *See Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973) ("a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another"). Accordingly, the Court **GRANTS** his *in forma pauperis* motion (doc. 2) for jurisdictional purposes only, and recommends that this case be **DISMISSED WITH PREJUDICE**.

**SO REPORTED AND RECOMMENDED** this 10th day of May, 2010.

  
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**UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT of GEORGIA**